

University of Michigan Law School
University of Michigan Law School Scholarship Repository

Res Gestae

Law School History and Publications

1999

Vol. 49, No. 10, April 14, 1999

University of Michigan Law School

Follow this and additional works at: http://repository.law.umich.edu/res_gestae



Part of the [Legal Education Commons](#)

Recommended Citation

University of Michigan Law School, "Vol. 49, No. 10, April 14, 1999" (1999). *Res Gestae*. Paper 189.
http://repository.law.umich.edu/res_gestae/189

This Article is brought to you for free and open access by the Law School History and Publications at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Res Gestae by an authorized administrator of University of Michigan Law School Scholarship Repository. For more information, please contact mlaw.repository@umich.edu.

The Res Gestae

Vol. 49 No. 10

THE UNIVERSITY OF MICHIGAN LAW SCHOOL

April 14, 1999

SFF Auction Hauls in Over \$29,000

By Kelly O'Donnell
RG Contributing Editor

Everyone has their own reasons for bidding at the SFF auction.

Maybe you think Bob Dole is dreamy. Or perhaps you just HAVE to own a few drops of Prof. Simpson's blood.

But others had slightly different motives for dropping hundreds of dollars at last Thursday's event. Take second-year student Tim Hudson, whose wife, Maiike, coordinated the event.

"I figured that if I didn't buy the Howard Stern autographed copy of the First Amendment, I'd just end up blowing the \$500 on cheap booze and hookers," he said.

"This way the money goes to charity and I don't have to worry about the Character and Fitness Board."

It's just that sort of unbridled enthusiasm which made the event so successful. SFF organizer Wendy Marantz said the auction brought in a record \$29,411 - \$6,000 more than



Photo by Karl G. Nelson

Andrea Lyon starts the bidding with enthusiasm, goading everyone to spend more.

any other year. The money, which will permit 10 students to work in public service jobs this summer, is badly needed due to a sharp rise in applications for SFF grants.

The top-grossing items were lunch with Bob Dole, which inspired Ben Furth to drop \$1,100; and dinner with Prof. Simpson, for which Amar Sarwal and Joel Samuels could have had for \$1,100, but forked over an ex-

tra \$1 just so Bob Dole wouldn't hold the record bid.

But just because the auction's over doesn't mean you have to blow your money on Thunderbird and call girls. SFF is now leading a pledge drive to entice students to donate a day's pay. An extra motivation is that many firms will match \$300 donations. For more information, stop by the table outside Room 100 in Hutchins Hall.

infra

Letter to the Editor	5
Faculty Hiring Exposed	6
Alumni Update	9
Final Tale from Cambodia	10
Tenure Illustrated	19
Madness in DC	20
Interview: Yale Kamisar	22

Campbell Finalists Defeat Vouchers

Controversy regarding school desegregation and voucher systems came to a head last Thursday, April 8, as the 75th annual Henry M. Campbell Moot Court Competition's Final Arguments were presented to a panel of three judges. Lisa Douglass and Wendy Marantz, arguing for the Petitioners, ultimately came out on top, but only after a formidable wrangling with Matthew



Lisa Douglass and Wendy Marantz argue their case

Roskoski and Randi Vickers, representing the Respondents.

Photos by Gregory Fox

See CAMPBELL, page 2

Photo by Gregory Fox



Above: The judging panel consisted of Honorables John Feikens, Karen Moore, and Alfred M. Wolin (left to right). Right: Matthew Roskoski and Randi Vickers carry six months of preparation into the final argument.

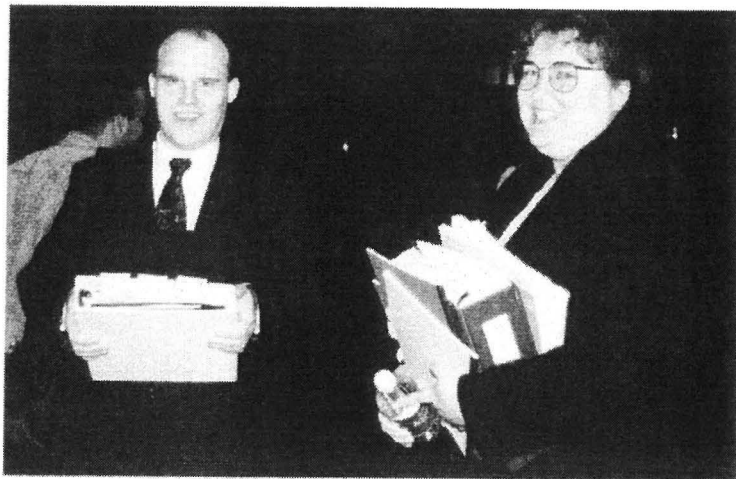


Photo by Rick Lee

CAMPBELL, from page 1

The litigation involved the efforts of Shelbyville, a small township, to desegregate their schools after a finding of de jure segregation in 1982 and their later attempts to foster competition by implementing a voucher system in 1992. Ten years of successful effort in accordance with a desegregation order were washed away when students flooded from Shelbyville's two public schools to the two local private schools, both operated as religious institutions. Although neither of the two private schools based their admissions on race, they were historically and continued to be segregated. The alternatives of deteriorating public schools or religious private schools were not satisfactory to one student's atheist parents, who sued on First and Fourteenth Amendment grounds.

Lisa Douglass was the first to step to the podium, confidently asserting that the voucher system violated the Fourteenth Amendment in two ways: First, the intent of the school board

was to circumvent the 1982 desegregation order; Second, regardless of intent, the resulting resegregation violated the board's remedial duty under the desegregation order, which required them to actively dismantle segregation. Questions from the judges started to rain down right from the get-go, concentrating on whether the resegregation was a result of state action. Douglass answered the panel by stating that the board is clearly a state actor, and "effects [of state action] do matter." Racism, Douglass said, must only be a motivating factor to establish intent.

Wendy Marantz tackled the First Amendment issue, arguing that allowing state funds to go to private schools through vouchers effectively promoted and endorsed their religious positions. The private schools, Marantz said, "directly indoctrinate students;" the First Amendment was designed to prevent state indoctrination. Marantz's oration was direct and conversational, remaining

strongly persuasive until her last few minutes, when hard grilling from Judge Wolin backed her into a corner. Switching gears to damage control, Marantz stood by her position that no state funds can go to private schools organized around religion.

Parental choice was the core of Matthew Roskoski's argument that there was no violation of the First Amendment. The school board's voucher system was religiously neutral, he contended; parents were free to choose secular education over religious institutions. The voucher pays tuition alone, and does not directly fund religious texts. US Supreme Court precedents were Roskoski's foundation, and he stood unwavering.

Randi Vickers wins the award for fortitude for coming on strong after watching her opponents and colleague subject themselves to the onslaught of questions from the judging panel for over an hour while she waited and revised her course of argument. Vickers countered Douglass's two assertions, emphasizing that the school board's intent was benign, and furthermore that they had fulfilled their duty under the desegregation order by integrating the public schools. The board, she said, wanted to send a "wake-up call" to the public schools so that their quality would stay high. Judge Wolin kept up his regimen of asking difficult

In the past few months, the RGWeb(TM) has re-emerged as a on-line powerhouse. From our site at

www.law.umich.edu/pubs/rg

you can read all of the main articles from the current and past issues, post and view classified advertisements, and quickly check out the day's weather. We also have useful links to the current day's TV schedule, grade curves for the past two semesters, *Notes from the Underground* for the past two semesters, and links to university and law school calendars.

cont'd on page 12

Panicked About Exams?

We Can Help!



- Over 2,000 Study Guides In Stock Every Day
- Discount Prices
- Fast Delivery To Your Door
- No Sales Tax For On-Line Orders
- Free Shipping On Orders Over \$100

Order On-Line:
www.lawstuffusa.com
24 Hours A Day, 7 Days A Week

Call To Order: 1-800-628-1160
Mon-Fri 8-7, Sat 10-2

Retail Store:
328 S. Jefferson Street, Third Floor
Chicago, IL 60661
8:00 AM - 7:00 PM CST Monday-Friday
10:00 AM - 2:00 PM CST Saturday

Your One Source for Textbooks and Study Aids

Gilbert Law Summaries
Legalines
Law School Legends Audiotapes
Emanuel Law Outlines
E-Z Rules/Easy Review
Smith's Review Series
The Professor Series
Law in a Flash Flashcard/Software
Siegel's Series
Strategies & Tactics Series
Black Letter Series
Nutshell Series
Hornbook Series
Sum & Substance Audiotapes
Sum & Substance Quick Review
Understanding Series
Student's Guide Series
Casenote Legal Briefs
Casenote Law Outlines
Examples and Explanations Series
Black's Law Dictionary
University Textbook Series
BarCharts
Finals Law School Exam Series

The Res Gestae

Editor in Chief:
Karl G. Nelson

Managing Editor:
R.M. Lee

News and Features Editor:
Christopher Lynch

Senior Contributing Editors:
Paul Luongo
Josh Turner
Bruce Manning
Larry Sager

Business Manager:
Tiffany Murphy

Layout Editors:
Pascale Bishop

Photographers:
R. M. Lee
Jami Jarosch

Contributing Editors:
John Amash, Paul Diller,
Bill Emerson, Erik Jens,
Charles Keckler, Kelly O'Donnell,
Theary Seng

Cartoonist:
W. D. Lee

Web Site Editors:
Maury Bricks
Nathan Carney

The *Res Gestae* is published biweekly during the school year by students of the University of Michigan Law School. Opinions expressed in bylined articles are those of the authors and do not necessarily represent the opinions of the editorial staff. Articles may be reprinted without permission, provided that the author and the *Res Gestae* are credited and notified.

The *Res Gestae* welcomes submissions. Please place all articles, columns, or opinion pieces in the *Res Gestae* pendaflex located on the third floor of Hutchins Hall across from the faculty mailroom. All submissions must be on a 3.5" disk. Macintosh format is preferable but IBM submissions are also accepted. The *Res Gestae* reserves the right to edit all submissions in the interest of space.

Mailing address:

The Res Gestae
The University of Michigan Law School
Hutchins Hall
Ann Arbor, MI 48109
Phone: (734) 615-1288

you have the right not to remain silent.

write to us:

rg@umich.edu

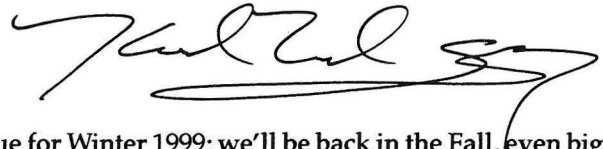
Commentary

Two perspectives on faculty hiring are presented in this issue: one from inside the process and one from without. To be honest, I had little idea of how faculty was chosen and what problems were inherent in the system before I read the two submissions featured among these pages. Only now do I realize exactly how deep we will have to dig for answers and how far we will have to reach for progress.

Whatever your perspective, I found the graphic on page 19 to be the most striking illustration of what we are dealing with. First of all, it may seem naive, but I did not expect the tenured UM Law faculty of 1969 to consist exclusively of white males. What about all those stories of UM Law's history as a progressive institution from Day One? What about the bragging point that women have always been among our ranks? I guess no one ever thought to mention that glass ceiling...

The second thing that hit me like a ton of bricks was the fact that there are only two people of color here who are tenured. I got the general impression during my first weeks here that the faculty seemed predominantly white, but I brushed that off as a lack of familiarity with the entire group of professors. I have come to realize, however, that those minorities whom I thought rounded out our faculty pretty well are usually just visiting. I'm not a fan of quotas, but *two* people of color? What year is this?

Judging by the number of signatures attached to the letter that begins on the opposite page, faculty hiring appears to be a hot issue among a substantial portion of the student body. Perhaps this issue's revealing look into the process will spark even more interest and participation from this law school's students.



PS - This is the last issue for Winter 1999; we'll be back in the Fall, even bigger and better. Thanks to all of our readers for making the effort worthwhile, and thanks to everyone who contributed this semester.

Quote of the Month

"That might make sense in a common sense approach, but based on this court's precedents..."

- Randi Vickers

In response to a contention put forth by the Honorable Alfred M. Wolin, representing the US Supreme Court during the Campbell Moot Court Competition Final Arguments.

Letters to the Editor

As the administration has stated repeatedly since the announcement of the lawsuits, a diversity of perspectives and life experiences in the classroom is integral to a complete understanding of the law and essential to a complete legal education. Dean Lehman suggested in his statement in response to the CIR suit that race and gender do matter for students studying law and for those practicing it. And while one's gender and racial background do not "preordain one's views on legal subjects ... nevertheless, [those of different races and genders] have different experiences that can lead them to bring different insights and perspectives to the study of issues as diverse as property law, contract law, criminal justice, social welfare policy, civil rights law, voting rights law, and the First Amendment." While diversity of the student body is critical to fully exploring these subjects, diversity in the faculty and curriculum plays an equal, if not more important, role.

Indeed, the touted benefits of a diverse student body are undermined when professors, as leaders of classroom discussion, choose to emphasize and support only a certain range of perspectives, approaches and curricula. Without assistance from the head of the classroom, all too often the burden falls on minority¹ students to raise "outsider" viewpoints in class. Since all three symposium proposals last year dealing with issues of race and gender were rejected, students are forced to seek funding outside of the Law School to bring in the missing, "alternative" curricula through speaker series and symposia.²

These complaints and critiques about the lack of racial and gender diversity in the faculty and curricu-

lum, assuredly, are not new. Various basement groups and journals have articulated these concerns repeatedly over the years through faculty hiring statements from their members as well as the submission of resumes and profiles of potential candidates and invitations to candidates to speak at Law School events. While the administration claims to share concerns about the lack of faculty diversity, prospects for faculty in this area remain bleak: currently only seven of the tenured and tenure-track faculty are women, only two tenured or tenure track faculty are African-American and only one is Latino. There are no Latina, Asian Pacific American, or Native American permanent faculty members. Professor MacKinnon is the only faculty member known for approaching the law from a Critical perspective.

Because of this lack of progress and the lack of information about the steps being taken to address these concerns, on March 25, 1999, a group of students from APALSA, BLSA, LLSA, NALSA, WLSA, the Michigan Journal of Race & Law, as well as other concerned students met with four members of the Law School's faculty hiring committee, Professors Croley, Frier, Hills, and Dean Whitman.³ At the meeting, the faculty members expressed support for more racial and gender diversity, but stated flatly that recruiting scholars with race and feminist critical methodologies was not a priority. The committee explained that it did not actively seek out critical race or feminist theorists because the Law School does not "slot hire," but instead hires based on the "overall quality" of a candidate. It is unclear, however, what these "qualifications" are. We

assert that one's critical race and feminist approach is an important qualification, imperative to addressing enduring deficiencies in the ways many of the core subjects here are taught.

One member of the committee expressed the view that Critical race and feminist methodologies have been debunked and are "on their way out." This type of academic subjective judgment hardly seems a useful quality in a member of the University of Michigan Law School Faculty Hiring Committee. We are hard pressed to understand how the discussion of race and gender as it impacts the law can ever be outdated or passe, absent complete equality. Especially at this particular juncture in the history of the Law School, where most law students find themselves confused by the affirmative action lawsuit, we need professors who understand not only the legal aspects of affirmative action, but the historical and social context and consequences. We need professors who can articulate a vision of racial justice. If, as the faculty hiring committee member implied through his pronouncement that race and gender critical studies are obsolete, a colorblind and gender-blind society has arrived, it seems incongruous that only white males have experienced the benefits of this utopia.

Commenting on Justice Powell's opinion in *Bakke*, Charles Lawrence noted that "in the context of the *Bakke* case, the faculty's goal of achieving a racially diverse student body was in pursuit of the pedagogical goal of teaching students about the racially divided world in which they live."⁴ "The assumption here is not that members of a certain racial group will

Cont'd on page 18

¹ For the purposes of this comment, "minority" refers to both women and racial minorities at the Law School.

² Both of the last two major successful symposia (the 1997 MJR&L South Africa symposium and the 1998 APALSA symposium) were primarily funded from sources outside the law school.

³ The group had tried unsuccessfully for over two months to meet with the faculty hiring committee. The students were given only 24 hours notice of time and place of the meeting.

⁴ Charles Lawrence III, *Each Other's Harvest: Diversity's Deeper Meaning*, 31 U.S.F.L. 757, 771 (1997).

⁵ *Id.* At 774.

The Quest for Faculty

The Current State of UM Law's Faculty and Hiring Process

By Bill Jenks
RG Guest Contributor and
Faculty Hiring Committee Chair

Reading Yolanda McGill's article in the RG last month I was struck by the ease with which she put her finger on the general, difficult to express, feeling in the law school. A distinct impression of coasting may be the best way to put it. Karl (your fearless editor) and Yolanda asked me to write an article addressing a more specific problem here at Michigan Law: the vanishing faculty. This article is intended to be read in two bites. First I'll present my own take on the current state of the Faculty and then discuss the faculty hiring process for those interested in how its done.

The Faculty at Michigan Law School

In the recent past Michigan Law has lost a lot of great faculty members to retirement or through raiding by other schools. Part of the student dissatisfaction with the law school's administration is based on the sheer quantity of visiting faculty and the quality of the faculty that have departed. Michigan has lost Alexander Aleinikoff (Con Law and Immigration), Avery Katz (Law and Economics, tenured in law but not by the UM Econ department), and John Jackson (An International Law giant) to Georgetown; FYI, Katz visited Columbia this past year (as did our own professor Alvarez) and he is likely to get an offer from them (as has our own professor Alvarez). We've lost Larry Kramer (Conflicts) to NYU; Kramer is now visiting at Harvard. We've lost Joseph Weiler (International Law) to Harvard, Debra Livingston (Criminal Law) to Columbia (though she was untenured at UM), Kent Syverud (Insurance Law, Civil Procedure) to Vanderbilt (to become Dean), and Joel Seligman (Securities Regulation) to

University of Arizona (to become Dean). Currently up for grabs is Rick Pildes (visiting for two years at NYU). Throw in a few legal practice professors and this group alone would be enough to found a very decent law school.

This group does not include the great professors who have retired. Worse, this list does not include the group of great Michigan Law professors who are approaching retirement age, among them Kamisar, Sandalow, and Westen.

We've had little success in raiding other schools. Very few lateral professors have been brought into Michigan's faculty during that time (notably Ronald Mann from Washington University, Jane Schacter from Wisconsin, and James Hathaway from York University in Toronto) and certainly not enough to compare in sheer magnitude to the numbers and the reputations of the transfers out. How depleted are we? The Michigan faculty does not officially have lines, but we could easily accommodate an additional 10 tenured or tenure-track faculty members.

Whenever you have a long drought you'll always hear a mass of excuses. I think my favorite one has to be the geographical location of the School. The beauty of this excuse is that it sounds like it's inevitable and no one's fault. Of course, the response is that in the late eighties to early nineties we had a significantly bigger and more renowned faculty than we do today and the geography hasn't changed. The counterpoint is that times have changed - spouses are working more and Ann Arbor/Detroit cannot offer enough to hold them here. Then you have to ask, did John Jackson really move to DC so that his wife could find work? Hell, I don't

know. Maybe he did.

Perhaps we could look at the faculty of the other Graduate and Professional Schools on Campus to decide if geography is a true killer. Have the Med School, the B-School, the School of Social work etc. lost equivalent faculty members? Are they unable to replace them? I don't know and actually I wouldn't care if I found that all of the schools at UM were on the slippery slope. The problem with accepting geography as an excuse is that we're then stuck with a problem that cannot be solved so why try? Acceptance of excuses is not only coasting, it's coasting downhill. Perhaps the richest state law school should be able to recognize that it is inherently difficult to reach for the top; but that is what the faculty, students and alumni should and do expect.

On the bright side, during the same period, Michigan has grabbed quite a number of promising young faculty members from the entry-level market. Relatively recent entry-level hires have included Clark, Croley, Hammer, Heller, Hills, Livingston (now gone), Logue, Malamud, Pritchard, and West. Some of these young faculty are developing into very well-reputed scholars. Together, in ten years, they could form the basis of an outstanding faculty. The question for 2005 is, will we be able to keep the budding giants, some of whom recently made tenure, on our faculty?

A word on diversity. The hiring of so many young scholars should have seen greater growth in diversity, but faculty hires at Michigan haven't kept pace with student demographics, nor have they kept pace with the demographics in the acknowledged pool of candidates with all the right credentials. Michigan has made a substan-

tial number of offers to a diverse group of excellent candidates. Some count that alone as success. But given the disproportionate number of rejections we have gotten from candidates who are members of groups traditionally underrepresented on the Michigan faculty I'd have to say it is not success enough.

The Faculty Hiring Process at Michigan.

Faculty hiring for the Law School is managed by the aptly named Faculty Hiring Committee. This year's committee includes Professors Croley, Whitman, Frier, Hills and Kamisar. Dean Lehman has a seat on all law school committees. In the past there have been two committees, one concentrating on the hiring of entry-level candidates and the other looking at lateral hires. This year was expected to be a light one in terms of hiring so only one committee was formed. Fortunately 1999 turned out to be a medium-heavy year in terms of candidates (over a dozen official interviews and even more unofficial) and hopefully we'll have a correspondingly heavy number of offers and acceptances.

Entry-level candidates usually have between 0 and 2 years of teaching experience as visiting professors and one or two research articles. Their resumes generally include a Yale/Harvard J.D., Articles Editor for Yale Law Journal or HLR, a clerkship on the Supreme Court, and a few years of work experience at a mega-firm or the Justice Department. The hiring process at the entry level typically begins at what is affectionately known as the "meat-market" held once a year in Washington. Members of the Faculty committee go to the meat market and interview something over 25 candidates in 2 days. The candidates who look promising/sound interesting are invited to Michigan to give a presentation to the Faculty committee. If the committee likes what they see they will then invite the candidate back to Michigan to give a presentation (usually the same one) to the full

faculty. That's called a job talk. Job talks generally cover a draft paper that the candidate is working on, which most of the faculty read beforehand. The presentation is designed to be 20-25 minutes in length. That is followed by a 35-40 minute question-and-answer period during which a good portion of the faculty try to test the candidate's ability to think on their feet. It's a little like oral argument in front of 25 judges. Then the candidate gets a tour and interviews with the faculty members who are in closely related research areas, meets with the dean, meets with students and goes to dinner with a few members of the faculty, selected (we hope) for collegiality.

Experienced candidates for lateral hiring positions are more of a mixed bag. Generally they have between a very solid research background and a spectacular research background. Typically they have been law professors for at least 5 years at other schools. They are often brought in as visiting professors for a semester. Given their strong research background this semester is more of a feeling-out period, to determine whether or not they are a "good fit" within the faculty and the law school generally. Most of them give a job talk, but the talks have a more laid-back feel to them. Lateral candidates are also brought in under varied circumstances. Often they are friends of the faculty who are asked to come for a visit. Sometimes the word goes out through the academic grapevine that Professor Big Name is interested in a change of pace and we'll offer them a visiting slot.

The decision whether to make an offer to a lateral and entry-level candidate is basically made by the same process. The Faculty committee solicits input from the general faculty and combines that with their own impressions of the candidates. The Faculty committee then decides, usually by consensus, whether or not to recommend a candidate to the faculty. If the committee does not recommend a candidate to the faculty then that candidacy is over. If the committee

recommends a candidate to the faculty then that candidacy will most likely be put to a full vote of the tenured and tenure-track faculty. The Faculty committee may not recommend everyone with the same enthusiasm; a report is prepared which will discuss the perceived strengths and weaknesses of the candidates. A strong recommendation from the committee goes a long way.

The faculty vote on whether to make an offer to a candidate. If a candidate faces "substantial opposition" they will not receive an offer. Substantial opposition is difficult to define, but basically it means whatever Dean Lehman considers to be substantial opposition. An example of substantial opposition would be if a torts professor were submitted as a candidate and after getting approved by a small majority with lukewarm enthusiasm it turned out that all three of the school's tort professors vehemently opposed the candidate. That would probably be substantial opposition.

The Role of Students in the Hiring Process

The Law School Student Senate appoints chairs to form a student committee each year. This year's LSSS Faculty Hiring Committee is chaired by myself, Wendy Marantz, Carolyn Russell and Bill Emerson. The LSSS committee has totally open membership. At the beginning of the year we held a meeting and asked people who were interested to fill out a form which would allow the chairs to match the members with candidates of similar backgrounds and interests. Students who didn't attend the meeting but expressed an interest by replying to the general email also served on the committee. Over 40 students were on the LSSS committee this year and nearly everyone of them attended a job talk and met a candidate. I apologize to those few we weren't able to match with a candidate.

The student role in hiring is fairly minimal. Note that this is one of the few law school processes wherein the students do not get a vote at any

phase. It is also, not coincidentally, the most important law school process.

The LSSS committee has three basic functions. First, they assist in evaluating the candidates from the students' perspective. Generally, a group of four students will read the candidate's paper, attend the job talk and then take the candidate out for coffee for about an hour. The students get together afterwards and write a memo discussing the perceived potential of each candidate as a classroom instructor, as a one-on-one mentor and as a part of the law school.

Second, the committee helps to recruit new faculty members by showing off the smart, funny, and engaging students at Michigan Law. We also try to answer questions about the school that the candidates, particularly the entry-level candidates, feel uncomfortable asking the faculty.

The third function of the LSSS committee is the one I think we've been least successful at this year: coordinating the voice of the students regarding faculty concerns. This year the committee solicited statements from the basement groups and journals regarding what they wanted to see in the faculty and distributed the 8 statements we received to the entire faculty. Efforts to coordinate, or even

find out what the various groups are doing, have generally failed. The students have not spoken to the faculty with a single voice, and the perception is that most basement groups are asking simply for "more people like me." Given the sparse diversity of the faculty this is no surprise. In fact, some of the basement groups really are asking for "some people (or one person) like me." As a student body we certainly do not look like we are on the same page.

What is Happening This Year?

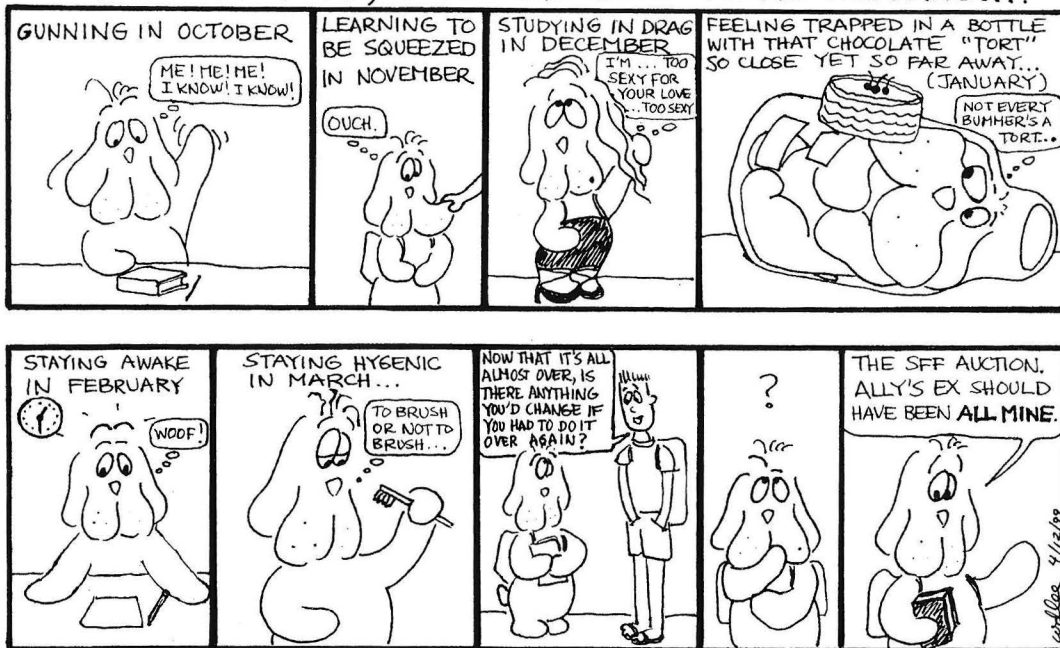
As I said above, this year has been medium-heavy in terms of activity. Typically visiting professors will not be considered until after the semester is over. So if you're wondering about your favorite visiting prof, it's probably still up in the air. The exception is Professor Ben-Shahar, a Law and Economics guru who has been offered a tenure-track position and, happily, has accepted. Two other offers have been accepted by entry-level candidates. Ellen Katz and Daniel Halberstam will be here in the fall; they are married and were looking for a school that would be good for them both. Her main research interest is Environmental Law and he is more interested in International. These

three candidates were actually quite "hot" on the job market and we should be very pleased to have gotten each one of them.

Four other offers have been made and we have yet to have any rejections. One was to a Constitutional Law scholar, two to International Law experts and one to an entry-level candidate interested in Environmental Law. The Faculty committee will recommend four more candidates to the faculty this year and the faculty may make as many as four more offers. Given that we have hired only three entry level and two lateral candidates in the last two years we seem to be doing better this year. The Faculty Hiring Committee changes each year and while luck has to play a role, you might thank the members of this year's committee, whose tireless efforts have surely contributed to this year's success.

In conclusion, if you are reading this, then you go to a great school with a great faculty. The thing you should be worried about is what that faculty will look like in 5-10 years. Will that faculty be great or will you have to say, "I went to Michigan when it was good"? This is a question that I'd like to answer for you. I can't tell you for sure, but I do know that when you're coasting you usually don't get that far.

WHERE NO DOG HAS GONE BEFORE — A YEAR IN REVIEW IN THE BEGINNING, THERE WAS ONLY "FERAE NATURAE"...



Three Second Memory

By Bruce Manning

The month of May means graduation here at the Law School. And as I weigh the idea of dropping out and becoming a typewriter pounding hack in a cabin in Montana, I ask the graduating class to think about where they will be in 20, 30, or 40 years. These selections culled from the most recent issue of *Law Quadrangle Notes* may provide some guidance.

CLASS NOTES

1950s

E. Joseph O'Hara, '54 a partner in the New York firm of O'Hara, O'Toole, and Rosenbergowitz, is overjoyed to announce his recent engagement to Nicole Eggert of Baywatch. The society pages of the *New York Times* quote Mr. O'Hara as saying "Yes, I gave up sex for sixty eight years so I could claw my way to the top of the legal profession, but look at me now!" The Law School is pleased to note that Sub-3 has been renamed the O'Hara Legal Celibacy Center.

Stephen M. Levin, '56 announces the publication of his second casebook, *Intellectual Property and Adverse Possession: What Happens When Someone Squats on Your Head*. Mr. Levin has also been named a Barbizon Beauty Fellow by the Office of the Vice President of the United States which has given him a grant to work on his forthcoming third book, *The Internet and the Hairnet: Fast Food and the 21st Century*.

Louis P. Stein, '59 has just freed his 44th wrongly convicted man from death row, and his first in Texas. Mr. Stein's classmate **John Freihammer, '59** just bought his fifth Ferrari, an F-50, and writes "Stein and his commie life-style can kiss my golf-playing ass." We can only note: Life is full of choices.

1960s

The University of Michigan Law School is saddened to share the news of the recent assassination of **Mathew J. Nelson, '61**. Mr. Nelson, a tireless

advocate for right-wing nut jobs and recognized by the National Rifle Association as "Gun-Toting Suit of the Year" in 1991, fell in a hail storm of bullets as he was driving around on his riding lawn mower in Boise, Idaho. He is survived by his son, **Gunnar M. Nelson, '87**. Gunnar has elected to defend his father's killer and intends to build his defense around the "Guns don't kill people" theory which has recently been codified into Idaho law.

William J. Dempsey, '64 has been elected governor of the Commonwealth of Massachusetts. Mr. Dempsey's campaign was funded entirely by the Amalgamated Super Giant Corporation. Mr. Dempsey comes to the position after 38 years of work as Chief Trustbuster at the Department of Justice and 24 years as a Lieutenant in Nader's Raiders consumer protection outfit. Mr. Dempsey simply states "I got tired of public service and thought it was high time to put myself in the position to accept big fat bribes while allowing all sorts of corporate mergers that will benefit consumers by decreasing competition."

Jennifer A. Koss, '68 of Santa Fe, NM would like to let her classmates know that she remains tuned in and turned on. Ms. Koss is entering her 31st year as the chief Soul Sister of Crystalline Therapeutic Massage, Inc. and invites everyone down for a free karmic readjustment. The Law School still does not anticipate Ms. Koss paying off her student loans and wishes that those who take up Ms. Koss' offer of karmic rolting donate the market value of the service to help pay off Ms. Koss' debts.

1970s

Former clerk to Supreme Court Justice Brennan, former campaign manager for the American Communist Party, former attitude advisor to Fidel Castro, and former legal counsel to Cesar Chavez, **Lisa Jensen, '73**

has been inducted into the Havana Hall of the People's Heroes. Under the Helms-Burton Act, the University of Michigan Law School has been forced to turn down Ms. Jensen's latest pledge of 37 pesos as it may be illegal trading with Cuba.

Tricia L. Cornell, '74 has recently started a thirty day term in Stillwater State Penitentiary in Minnesota. She was sentenced under Governor Jesse Ventura's new populist "First thing we do is get all the lawyers!" sentencing guidelines revision. The Consortium of American Lawyers has filed an appeal on her behalf which argues that the one month sentence is a cruel, unusual and excessive punishment for an offense whose criminality is highly overrated: the systematic overbilling of clients.

James Marcum, '79 invites the Ann Arbor community to admire the four color advertisement recently placed by his firm of Me, Myself and Marcum, in the Ambulance Chasers section of the yellow pages. Mr. Marcum's practice specializes in divorce (he has handled five for himself alone!), sexual harassment (successfully defended himself 17 times), and DUIs (he may no longer drive in the protectorate of Guam, but he's still on the road in Michigan!). He is looking to develop a medical malpractice division and writes "If you know a clumsy dentist with a big insurance policy, I'm your guy."

Please stay in touch with the University of Michigan Law School. Donations can be mailed directly to Comerica Bank account number 3722421271 payable to Jeffrey S. Lehman. Changes of address should be sent to the Student Loan Pursuit and Capture Office, 510 S. State Street, Ann Arbor, MI, 48105. Tell us about your most recent professional accomplishments!



Tales From Cambodia

**The Last in a Series
By Theary Seng**

Two years ago, early Easter Sunday morning, terror struck the heart of Phnom Penh. Four grenades left 16 dead and wounded over one hundred others. One bodyguard jumped on Sam Rainsy to shield him from flying shrapnel and lost his life. The wounding of an American, an International Republican Institute representative who was flown to Singapore for treatment, subsequently involved the FBI. Forty-five minutes later, the ringing of my on-loan cell phone rudely interrupted my slumber and the oblivion of havoc wreaked half a mile away. "Theary, your family called. There's been a grenade attack. 'Lorc Pu' [Rainsy] and 'Nekmieng' [Saumura] are okay. They want to see you."

The call came from Sam Rainsy's house, also the central nervous system of the opposition movement. My family in the States immediately heard of the massacre on Voice of America and feared I might have been one of the dead. Only the day before I emailed them of our plan to demonstrate in front of the National Assembly against the corrupt judiciary. I had spent all of Saturday evening making posters and signs in English (for international consumption): "Down with the Communist Judiciary!" "Independence for the Judiciary!" and so forth. Everyone assumed I would be there the next morning as I had participated in numerous prior demonstrations. Then, they had only sprayed bullets in the air and sprayed us with water from fire hoses. However, on this occasion, I had reservations. First, the focus of the demon-

stration involved my former colleagues and students. During my one-year stint at the Ministry of Injustice [oops, Freudian slip], I had forged ties I did not want severed. Second, I planned to attend the Easter church service later in the morning. Ultimately, the failure of my alarm clock resolved the issue and kept me away from harm.

I jumped on a motor-taxi and arrived three minutes later to find Sam Rainsy's block jammed with vehicles of diplomats, rights workers, journalists, and other well-wishers. Security was beefed up tenfold. Usually, a "Hello, Teacher" greeted me at the gate. That morning, however, one of the security guards sheepishly proceeded to run the security detector rod alongside me but was deterred by his partner's "Come on". I told them no offense was taken and they should stay with the necessary protocol.

Inside, Sam Rainsy was in the middle of giving a news conference. Most of the major international press agencies with their different modes of communications hovered around him, throwing out questions. After absorbing enough of the story from the conference, I lingered among the bodyguards. They gave me their account. They told of bodies stolen; thus, no one really knows the extent of the loss. One of them was kidnapped and blind-folded by a group of men. They took him at gunpoint to the river and demanded that he renounced his ties to the opposition. A false assent and his gold ring saved his life.

The American FBI's findings of the Easter Massacre implicated Hun Sen, Cambodia's strongman. This is the same man who recently assured the world that he can find justice for Cambodia in the domestic trial of the Khmer Rouge leader, Ta Mok. But lest

we forget, Hun Sen himself was a top Khmer Rouge leader, no less than "Brother Number 8." He defected to the Vietnamese Communists not out of principles but out of fear of being the next purged. And was Hun Sen not the one who gave amnesty to Nuon Chea and Khiev Sampan, second and third in command only after "Brother Number One", Pol Pot himself? These were the issues raised before an international crime tribunal by Hun Sen's vehement opposition. A domestic trial will lead to a parody of justice that will curdle even the blood of the 2-3 millions dead. Undoubtedly, Ta Mok is crimsoned with guilt. But no more than any of the above players should he serve as the sole scapegoat. Cambodians privately and Cambodia collectively need closure of their past. I don't know in what form. However, I am certain the sham proposed by the pariah regime offers no solution.

* * * * *

Those of you who have read this far and EIC Karl have been kind in allowing me to indulge in thoughts on Cambodia. If you haven't noticed, Cambodia holds a sacred place in my heart. After a quick reflection, however, I'm not sure if I haven't done injustice to the Cambodian people in painting them with only a few broad strokes, presenting pictures only of the dim and grim of Cambodian life, only the drama and trauma as perceived by a privileged American. True, Cambodia has experienced more than its share of tribulation and continues to do so. But this is not to say, in the midst of it all, beauty and merrymaking cease to exist. I remember going to the fabled ancient ruins of Angkor Wat for the Ramayana Dance Festival. This experience, to a



former dancer, was sublime -- unparalleled in many respects. The temple served as the stage and backdrop for the performance. Under the sparkling stars, to the beat of rhythmic music of a traditional Cambodian orchestra, the beautiful "apsaras" (heavenly beings) gracefully and seductively weave from the dark columns onto the lighted stage. The dancers appear to have transformed from the ornately carved stone figures, ubiquitous on the temple walls, into supple, life-breathing apsaras. Even more magnificent is Angkor Wat, set against the backdrop of hundreds of other ancient temples from the tenth to twelfth centuries - now in ruins from massive plunder, mines, The roots of giant trees, age, and UN folly (e.g.- using acid to restore intricacies on ancient stones).

I conclude this series with thoughts as captured in June 1996 in Phnom Penh:

Memories of that first moment in Pochentong Airport flicker dimly in the distance of nine months of Phnom Penh living. I can no longer relate as well with the idealistic person who sobbed inconsolably with burning tears, evoked by the dirty emaciated faces reflecting her youth, now exploring her for money as she first stepped onto Cambodian soil. She quickly learned that survival demands a certain degree of immunity

to the ubiquitous poverty, suffering, and insanity engulfing her.

I remember the deep sorrow that blanketed over me - as well as the other volunteers I'm sure, as the van made its way from the airport to the Cando* office and my living quarter for the next twelve months - at the

sights of skeletal children playing on heaps of trash as if they were rolling on green pasture; of decrepit, war-created transparencies of Phnom Penh University buildings; of dark, gloomy wooden shacks that line the streets with women sitting at stands patiently waiting for customers; of dusty and sweaty faces, lined with expressions of hopelessness and futility but thinly layered with a determination to get through the day. Oh, if each could tell her story - but all their faces seem to say, "I have weathered so much that if I were to tell you, you wouldn't understand." As the van came into view of Independence Monument, a sharp pain of familiarity - a sickness of nostalgia - triggered memories of my time spent there many years ago playing hide-and-seek with siblings.

We arrived in the middle of the rainy season. I remember wading through knee-deep sewage water as we made our way from Cando II to the office of Cando I for orientation that first month. The dilapidated, hole-ridden, flooded roads make for adventurous cyclo (rickshaw) rides. A rowboat would have made for smoother and more practical transport as streets overnight transform into rivers. Cyclo- and motor-taxi drivers made use of the stream as they washed and shined their possessions along the road only to have their cleaned wheels splashed and dirtied

by oncoming Mercedes. Children play and swim in the city-river alongside women balancing baskets with amazing ease and poise, selling local delicacies from "noum arkow" to seasonal tropical fruits.

During my first trip to the neighborhood market, I almost fainted from the stench and unsanitary condition. The mixture of flooding, garbage, and the odor of the open market create a perfect breeding ground for disease. Have I become too bourgeois in my attitude? Or has everyone a right to a healthy environment?

It is really very difficult not to take on an elitist attitude here, especially as an "anikachun" (Cambodian from overseas). Prior to coming to Cambodia, I romanticized about running free with children in the villages, eating delicacies from street vendors, dressing in traditional local outfits, living in shacks. I romanticized that I would be free from the comfort of fifteen years of American middle-class living and fully embrace the culture of my roots - at least for the one year I was there. The 140 pound maximum allotted to me for luggage I packed primarily with books, gifts, and the most essential personal items, purposefully avoiding stylish clothes of Western taste. Sarong is the way to go! How quickly that first day in Cambodia shattered my romanticized ideals! Each of the volunteers was shown our own personal, spacious, fully-furnished, air-conditioned room in our well-guarded villa in the wealthiest section of Phnom Penh. We were introduced to our cook, our maid, our laundry lady.

I did make a conscious effort to not let the royal treatment dilute my strong initial desire to contribute to the development of Cambodia. I refused the laundry service. For the first eight months, I scrubbed my own clothes. I had sarongs cut. I only accepted half the time to be driven to and from work at the Ministry of Justice. I frequented local restaurants and stands. However, success was short-lived. After the first few months, inexpensive, local stands were traded in for trendy, western

*Cando is the acronym for Cambodian-American National Development Organization.

hang-outs. The "Cando Breakfast Club" can be spotted religiously at the French café, Phnom Khiev. And hey, that Ministry of Justice four-wheel drive would make for a smoother and more sophisticated ride than the rickety cyclos. Moreover, it would provide better protection against the dust and heat to maintain that pale, bourgeois skin. And now that I am presenting the news on national television, tailored expensive clothes are excusable.

Thus continues the deterioration in thinking and action. Would Cambodia be better off without people like me? The country doesn't need attitudes - plenty of these already exist here among the leaders and the expatriate community. Cambodians don't need "anikachun" flashing the almighty dollar in their faces, for they have witnessed how more vices can be achieved with a dollar than a riel. The ultimate result, then, was not the altruistic, American me benefiting Cambodians. Rather, in all honesty, I gained far more than I gave during my nine months there.



Ancient carvings adorn the columns and walls of one of thousands of temples in Cambodia. The temple served as the backdrop for the Ramayana Dance Festival, pictured on page 11.

The International Law Society

**will hold elections for their executive board
from April 14 to 16
in the Hutchins Hall basement.**

**All members of ILS listed in the 1998-99
directory and all registered non-members are
eligible and encouraged to vote.**

CAMPBELL, cont'd from page 2

questions, asking if the board's action would be viewed differently if the court had lifted the desegregation order before the voucher system was implemented. Vickers responded effectively and confidently, meeting the panel head to head every time (See Quote of the Month).

After a brief deliberation, the three-judge panel returned with their verdict. The determination of the overall winner was based equally on the written briefs and the oral arguments. Judge Moore delivered the panel's decision that the Petitioners wrote the better brief, while the Respondents dominated the oral presentations. All three judges emphasized what a tough call the final choice was; only one pair can walk away with the overall victory, however, and the scale tipped in favor of the Petitioners, Marantz and Douglass.

Following the delivery of the verdict, each judge offered sage advice to future litigators. Judge Moore, in response to many a look of fear from counsel when interrupted by the bench, stated that not all inquiries are a trap - "There can be friendly questions," she said.

Judge Feikens, feeling that the facts favored the Petitioners, urged everyone to choose their best argument and concentrate on it. "Don't give every argument equal value," he emphasized.

Judge Wolin, by far the most challenging judge on the panel, disagreed with Judge Feikens, saying that the Respondents had the easier brief to write. Judge Wolin offered three tips to law students interested in litigation: First, "Give up what you have to give. Don't ever try to defend an indefensible position." Second, pausing is okay; many judges like to see counsel deliberate and form their thoughts before responding. Finally, be prepared for a judge to focus on one argument. Know every facet of your argument, and try to foresee potential questions from the judge.

The four final competitors already knew most of these tips, and demonstrated their skill remarkably well. It is clear that they all will go far if they choose to continue litigating.



**By Karl G. Nelson
RG Editor in Chief**

You can only
SHEPARDIZE[®]
using
Shepard's[®]

SHEPARD'S[®] Citations Service online exclusively
on the LEXIS[®]-NEXIS[®] services beginning July 2.
You won't find it online anywhere else.

Set your cites on the future — SHEPARD'S on LEXIS-NEXIS.

Shepard's[®]

SHEPARDIZE[®]. OR COMPROMISE.

1-800-45-LEXIS



LEXIS[®]•NEXIS[®]

LEXIS and NEXIS are registered trademarks and the INFORMATION ARRAY logo is a trademark of Reed Elsevier Properties Inc., used under license.
SHEPARD'S and SHEPARDIZE are registered trademarks of SHEPARD'S Company. © 1999 LEXIS-NEXIS, a division of Reed Elsevier Inc. All rights reserved.

www.lexis-nexis.com/lexis-shep



LARRY'S HIGHLY CLASSIFIED ADS

LOST AND FOUND

Lost: Laptop Computer

Great sentimental value. 734-662-1228

Lost: Blue Computer Disk

All my outlines are on it. Please help me. Desperate. Return to Rm. 300.

Lost: Cash

Various denominations. Possibly still in bag. Ask for bank mgr 734-995-7801.

Lost: Stuffed Squirrel

Last seen in Law Quad. Please return to the Legal Writing Office.



Lost: One Multiple-launch Rocket System

Operates in all types of weather. Any-one with information, please contact The Pentagon, Washington DC.

Lost: Poodle in Heat

White fur, has pronounced limp. Lost on State Street 4/5/99. Possibly last seen getting into a 1968 VW van. Please call 1-313-965-5511. Reward.

Lost: Dignity

Last seen in Room 150. Contact John at jlosser@umich.edu

Lost: Yellow Floppy Disk

Distinguishing marks: Sony trademark, "HD" imprint, spring-loaded metal guard, blank label. Contact harveyr@umich.edu.

SERVICES

Free Pamphlets

Moms: Throw Dr. Spock away - Send for your free Machiavelli child-rearing handbook today. PO Box 18897, West Bloomfield, MI 48033

HOUSING

Sublet Available

\$75/month. Free parking, cable TV, utilities included. Ocean view.

Roommate Wanted

Female preferred. Vegetarian household. Smokers OK. All utilities included except phone, water, cable, gas, and electricity. \$275/mo. Contact Bill.

PERSONALS

Rude AATA Passenger

To the woman on the bus carrying the plastic baby who would not offer her front seat to the elderly, disabled gentleman - if I ever see you again, I will cut off your arms and legs.

Chance Meeting

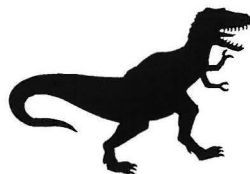
We met at the Goldbergs' Bar Mitzvah - me doing the hokey-pokey, you puking your guts out. I never got your name. Call me - I love you.
(248) 626-8807

We just want to talk to you

Looking for the first-year law student who left 18,497 printouts in the computer lab, search terms "criminal, violat!, statut!, MPC." We have your documents; come and get them. Contact Westlaw representative.

Seeking Soulmate

Obsessive-compulsive man with unfortunate hair desires muscular woman to share the sky, romance, and spiritual growth. Must type at least 40 wpm. Eddie 248-737-9366.



FOR SALE

One Used Couch

\$Cheap. Please email jalevy@umich.edu

Sony CD Player - 5 Disc Magazine
With remote, radio, dual cassette player, and four speakers. Sounds great. Must sell. \$225. Call 734-827-2520.



Moving Sale

Book shelf, excellent condition. Great for books. \$25. Must go. Call 734-827-2520.

One Multiple-launch Rocket System

Operates in all types of weather. Ask for Thomas. No cops. 734-422-4609.

HELP WANTED

Sperm Donors Wanted

We are looking for healthy law students between the ages of 24 and 30. All ethnic backgrounds are encouraged. Must be top 10% or Law Review. Fee paid. Send inquiries to Bob Dole, PO Box 1000, Ann Arbor, MI 48106.

What is the cutoff height before you are a non-midget?

Study being conducted by an enterprising law student. If you are over four feet tall, earn lots of money in your spare time. Contact Theary at Los Res Gestae.



Music Reviews

By Karl G. Nelson

APHEX TWIN: *Windowlicker*

Rating: LOVE/HATE

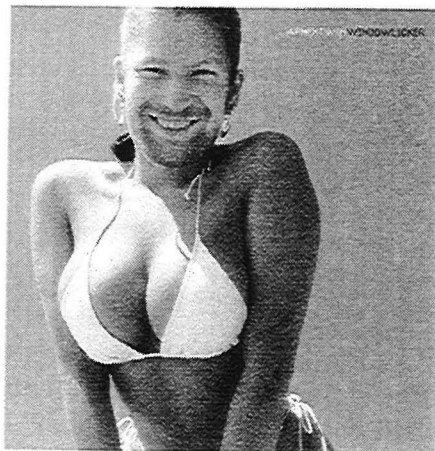
Aphex Twin is the primary pseudonym adopted by British electronic marvel Richard D. James, an eccentric, mysterious character who may very well become the 21st century's Mozart. *Windowlicker*, James' latest EP, may contain only three tracks, but it demonstrates convincingly that his skill and musical vision are still expanding at a phenomenal rate. There is not a single artist on the planet whose music has pushed the envelope in terms of style and innovation as far.

James has assumed a number of monikers over the years, including AFX, Caustic Window, Q-Chastic, and The Dice Man to name only a few. His discography includes dozens of releases, ranging from limited vinyl pressings of as few as 100 copies with no labeling whatsoever to never-published themes for television advertisements. His booming popularity has driven him, fortunately, to re-release most of his long-out-of-print library. His videos are not exactly MTV fodder; the nightmarish "Come to Daddy" was only featured briefly, and I believe came with a guarantee that any viewer under the age of ten would wake in the middle of the night screaming for Mommy.

The title track of *Windowlicker* is another fine example of James' mastery in combining elements of contemporary electronic music with effects and sounds that have never even been dreamed of before. A THX sound system would be nice to have for listening to this EP; the low end of the sonic spectrum is utilized far beyond the capabilities of anything you can find at Best Buy. The second track, with a title much too complicated to write in this space (James enjoys throwing music cataloguers a loop by endowing his tracks with scientific formulae rather than normal letter-and-number titles - I'm talking sum-

mation symbols and all here), is mostly experimentation and showing off what he can do with his computers.

The innovation is not just in the sounds, however. While most songs can be summed up in two to three pages of sheet music due to their repetitive spirit, James rarely maintains even his percussion for more than a single measure. Every element of his music evolves, distorts, and shifts throughout each piece, much like the groundbreaking orchestration of clas-



Perhaps this is the subject of Aerosmith's "Dude Looks Like a Lady"...

sical composer Steven Reich (who you also need to hear if you haven't). Sometimes the sounds will flip around and play backwards, sometimes the beat will pause, and often a new sound will come out of nowhere and scare the bejeezus out of you. The amazing thing is that it works. To borrow a term from policy studies, what we have here is a paradigm shift, and one doozy it is.

The final track, "Nannou," demonstrates James' ability to create music on a computer that is not only intriguing, but melodic and lovely as well. Beautiful in both sound and concept, this simple song starts with the sound of someone winding a music box,

then recreates the music produced by such a box with amazing authenticity, all the way down to the metallic resonance of the vibrating tines. Layer builds upon layer, even incorporating the sound of the winding; it all adds up to glorious depth and texture.

Not satisfied with putting out a mere audio CD, James decided to debut new technology on this disc as well. Touted as the first of its kind, the disc includes software called HyperCD, which allows possessors of the EP (and an internet connection) exclusive access to a website that features the full-length, TV-quality video for the title track. The video plays with startling resolution and smoothness even through a 56k modem. Chris Cunningham, who directed "Come to Daddy" (and also Madonna's "Frozen" - so you can tell he has an eerie streak a mile wide), took it upon himself to create yet another disturbing vision of Richard D. James' face superimposed onto others' bodies. This time his goateed visage appears on bikini-clad women (just like on the EP's cover), with rather hideous results. It must be seen to be believed. Technology is great, but I have to say that this application should never have been explored.

As stated in my rating of this CD, you either love Aphex Twin or you hate Aphex Twin. With a passion. My fiancée complains of headaches and impending nightmares. My brother and I, however, fiend for the next release. I firmly believe that Richard D. James is laying the path for the music of the future; it will take years for other artists to catch up. Even if many find his sound distasteful, his innovation in terms of structure will influence many to come. My advice is to familiarize yourself with the sound now, before the rest of the block catches on.

It Can't Be Good

By Charles Keckler
RG Contributing Editor

As most people now realize, Keanu Reeves is a brain in a vat. In *The Matrix*, he thinks he's a cog in corporate America, but this is mere illusion for nasty reality (an apocalyptic wasteland). As I am not the film critic, I feel comfortable spoiling this for you, to reflect on the movie as part of a curious trend that includes *The Truman Show* and *Pleasantville*. In all three, a prosperous if rather dull social order is humming along until revealed as a metaphysical fraud. I take this as some kind of backhanded critique of our current economy, or (given Hollywood) perhaps of social equilibrium generally.

If this technique is intended as faultfinding, it is rather bizarre. After all, assume you were uncomfortable with our current situation, perhaps infuriated with "complacency." Is proclaiming the whole shebang a fraud the best you can do? Doesn't this really confirm that you are bereft of the moral resources to articulate a particular complaint? Alas, modern ideology is specifically designed to produce bovine satisfaction of wants, and by so doing, creates complacency. The last two decades have merely added the caveat that people must actually *work*. If all you believe important is such preference fulfillment, then there is really not much to complain about. Some people shudder at a world they can't gripe at, so I get the sense these movies are a kind of fantasy of escape from such a "horror."

Consider Y2K nuts. On the tube the other day, one was rhapsodizing about how social collapse was going

to force us to act collectively and abandon our wicked individualism. There are plenty of others at the opposite end of the spectrum, dreaming of regrettably machine gunning their "unprepared" neighbors, and then rebuilding a new America based strictly on works published by Paladin Press.

In the current economy, the reality is if one has a modicum of wit and is physically and emotionally capable of working a forty-hour week, one can have food, shelter, and Oprah. You have to have the appropriately high level of jerk-tolerance, but high school can teach you *that*. Of course, you suffer if you disobey the market, refuse to produce, and decide to write poetry. Combining this with becoming a drunk or taking heroin can also limit your prosperity. But the vast majority of citizens feel this tradeoff is fair.

For the culture of complaint to survive, one can cavil about people's "rights" to be poets or drug addicts, i.e., that the requirement of actually producing something for your keep represents unjust oppression. The charitable impulse to distribute goods to those physically or mentally incapable of significant social production is a similar, if better justified, source of complaint. A third tack taken is to internationalize the issue; after all, other places haven't solved the equation yet. Finally, whining at the unfair distribution of inherently limited resources is popular. It used to be that food and jobs were limited resources; now complainers focus on who gets to live in the Hamptons.

The problem with these "something for nothing" campaigns is not that

they all lack moral force, but that our primary economic struggle for the last four centuries has been to get "something for something." It's not surprising a little ardency has left the progressivism of the populace. Thus the hunger to show it all up somehow.

Denying we have new economic issues, though, is just a way to avoid the hard questions. There is a kind of tacit agreement in this country to ignore talk of ends in the interest of enabling the basic means for most citizens. The compact can only be maintained so long as the populace is struggling to stay afloat, and I often wonder how many of the new inequities unearthed by intrepid lawyers, journalists, and academics are designed *sub rosa* to keep this agreement viable by finding it incompletely fulfilled.

Be careful what you wish for. There are plenty of things wrong with our culture, but they are the natural result of a society that has prosperity without morality, tradition, or courageous sacrifice. In other words, the society liberalism has long been making. It's soulless, boring, and shallow, and drifts along rudderless, guided only by self-indulgence and the worst pop psychology nostrums. Recalling another film, *Clueless*, the national resemblance to a spoiled teen suburbanite becomes clear. No wonder it seems almost possible to believe we're trapped on a soundstage, occasionally troubled in the night, perhaps, by dreams from a more interesting world.



The best
just got
better...

Shepard's[®]

the next generation.



LEXIS[®]·NEXIS[®]

LEXIS and NEXIS are registered trademarks and the INFORMATION ARRAY logo is a trademark of Reed Elsevier Properties Inc., used under license.
SHEPARD'S is a registered trademark of SHEPARD'S Company. © 1999 LEXIS-NEXIS, a division of Reed Elsevier Inc. All rights reserved.

www.lexis-nexis.com/lawschool

Cont'd from page 5

share an ideology, but that members of a non-white racial group will have experienced white supremacy differently than whites and will therefore possess a different knowledge of American racism."⁵

If Bakke requires diversity in order to acknowledge these non-white viewpoints, the role of the professor in advancing "the robust exchange of ideas" is critical, given the stifling construct of Socratic teaching. Indeed, the very nature of Socratic teaching is an exercise in law and economics, maximizing profits for the Law School, while minimizing the effort professors expend on teaching. To make this structure function to any adequate extent requires professors who can interact with and understand racially diverse student bodies—professors who share the non-white experience.

The request for scholars invested in Critical methodology is not just a request for "politically correct" reference to race and gender to appease a special interest or particular students, or even a request for a separate class about race and gender (though, of course, such a class would be nice...). Rather, it is a call for the substantive analysis that all lawyers and judges need in order to think about, recognize and fully understand the implications and interpretations of the law. The failure to address issues of race and gender in the Law School classroom contributes to the inability of lawyers, judges, and policymakers to recognize them and address them in practice. This is different than requests for environmental law or sports law classes: race and gender analyses are not insular fields of study, but necessary components of every field of law.

Additionally, it seems suspect to claim that candidates are not hired for their methodologies when most of those hired share the same traditional perspective or approach, namely a sympathy for the law and economics movement. The failings of this approach are obvious. We are taught 14th Amendment Equal Protection

cases without mention of the Civil Rights Movement; Brown without consideration of how and whether the education desegregation rulings were effective in practice; Constitutional Law without Dred Scott, Roe, or McCleskey; Goetz and Johnson v. M'Intosh without mention of race.

It is hard to believe that the Law School would not hire a candidate to fill subjects it considers core to the curriculum. All first-year law students are required to take 2 semesters of substantive material in the same 6 classes. Professors are clearly needed to fill these slots. Similarly, there is a need for qualified professors to teach race and gender classes.

While we appreciate Deborah Malamud's efforts to bring scholars like Maria Ontiveros and Sumi Cho as visiting professors who offer a critical perspective in their classes and curricula, the approach of sporadic, short-term, "rotating diversity" is not enough. These professors share the same kind of "objective" qualifications as the permanent faculty, namely PhDs and outstanding records of scholarship. What distinguishes them is both their status as racial minorities and their use of that experience in their writing and teaching through a critical examination of race and gender in this society. Beyond semester stays, we need tenured and tenure-track faculty mentors who can and will make a long term commitment to the student body to teach the type of critical perspectives that are currently flourishing in the legal community outside the law school.

The objective of the March 25 meeting was to open a dialogue between students and faculty about the faculty hiring process so that concerned students can obtain more information about the faculty hiring process, which remains shrouded in secrecy. While the Law School Student Senate has a committee that works with the Faculty Hiring Committee, the information the Senate Faculty Hiring Committee receives has not been shared with other student groups. The Senate continues to appoint students onto the Senate Faculty Hiring Committee who do not actually represent

the substantive concerns of many students at the Law School. This committee does not work with students to effectively address their concerns about faculty hiring, a goal which should be their primary objective as student representatives. Rather, they sit as an insular and exclusive body that has ironically inhibited students from participating in the faculty hiring process.

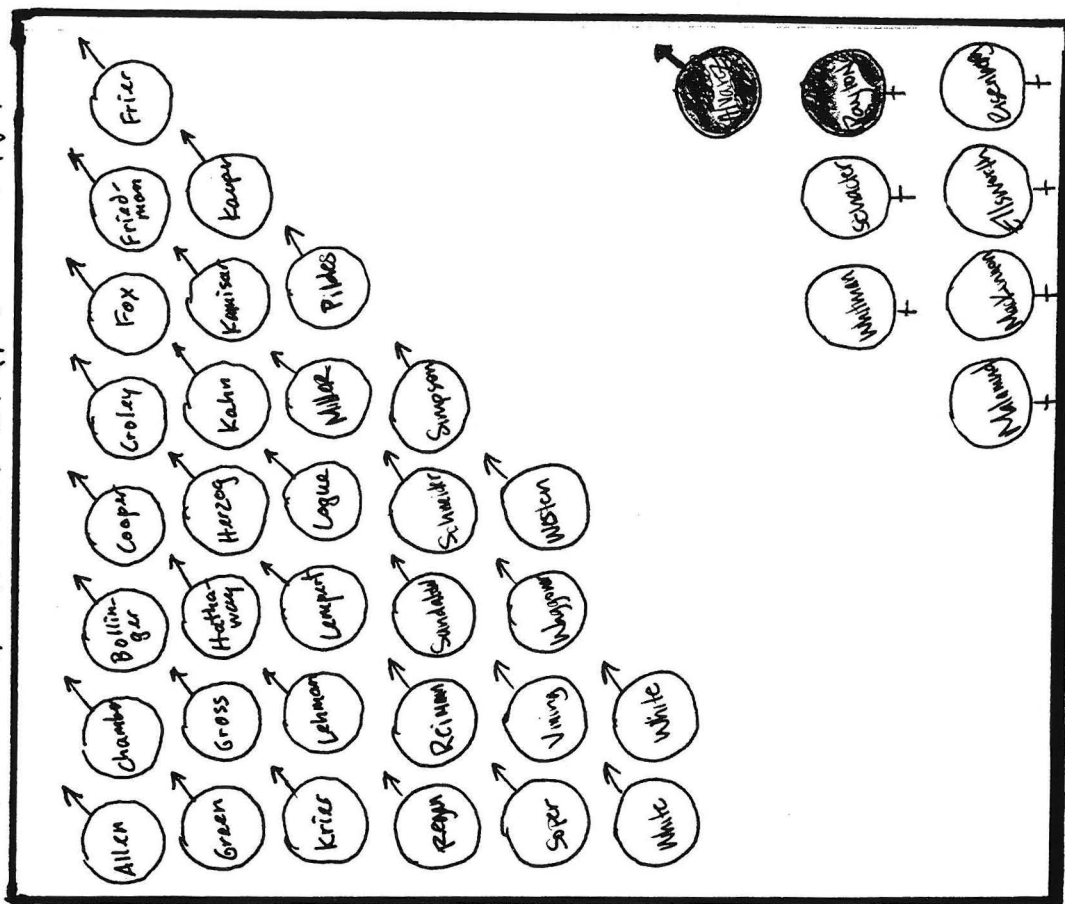
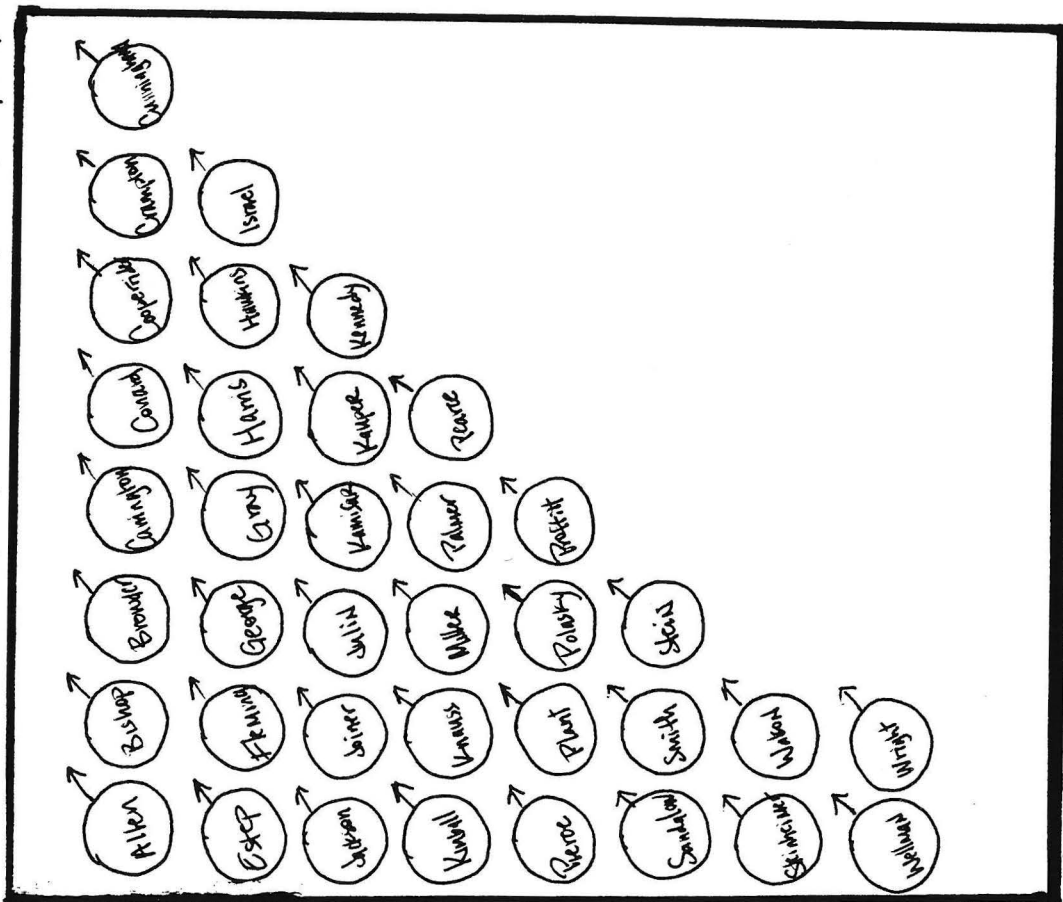
We are now at a critical moment in the history of the University of Michigan Law School. Our school could become the last battleground in the legal fight over affirmative action. We are making a call to the law school community to actively struggle for the appointment of minority faculty that can teach the Critical perspectives currently being taught in most U.S. law schools. If the Law School actually believes in the diversity defense it is using in the lawsuit, now is the time to prove it.

Signed:

George Cho, 3L
 Jenny Cooper, 2L
 Ben DeBerry, 3L
 Kelly Drake
 Marita Etcubanez, 2L
 Dan Feldstein, 2L
 Maia Goodell, 1L
 Hector Gutierrez, 3L
 J. Manuel Herrera, 1L
 Jay Im, 2L
 Winnie Kao, 2L
 Morenike S. Kassim, 3L
 Hardy Kim, 2L
 Patricia Kim, 2L
 Stacy Y. Krupa, 2L
 Amit Kurlekar, 1L
 Jane Larrington, 1L
 Chung-Han Lee, 2L
 Matthew J.X. Malady 3L
 Jodi Masley, 2L
 David Mitchell, 2L
 Christophe Mosby, 2L
 Gerald S. Ohn, 1L
 Rachel S. Paster, 2L
 Nada Payne, 3L
 Alicia Perla, 3L
 Kevin Pimentel, 3L
 Dana Roach, 3L
 Scott Rowekamp, 2L
 Chuanpis Santilukka, 2L
 Tushar Sheth, 1L
 Scott Varholak, 3L

30 YEARS OF PROGRESS...

FACULTY AFFIRMATIVE ACTION AT MICHIGAN LAW



TENURED FACULTY, 1969

TENURED FACULTY, 1999

NOTE: This graphic design was conceived by the Berkeley Coalition for Diversity, and Luke Cole and Keith Aoki's Casualties of War.

A Metro Mutiny and Beaver Brawl in Our Nation's Capital

By Josh Turner
RG Senior Contributing Editor

I just got back from a trip to Washington, DC, which will be my home in a few short months, assuming that I can successfully muddle through my last set of law school exams. The District of Columbia is often reviled and derided because of its role as the home of the comedy of errors that passes for a Federal government. This is entirely unfair—there are many better, more apt reasons to deride the District. After all, it is not the District's fault that the Federal government is located there.

One that springs instantly to mind is the absolute media *frenzy* that surrounded the presence of beavers in the Tidal Basin. The rodents, it seemed, were confounding the National Park Service by chewing through the famous cherry trees that encircle the Basin. Of course, the delicious irony of this foul occurrence happening during the Cherry Blossom Parade was too much even for the national media to resist, but the local papers and TV news were absolutely blanketed with the story. The search for the noxious beasts occupied every news break (accompanied by the *de rigeur* file footage of various beavers swimming about and looking beaverish), and served as the top story on all the local broadcasts, eclipsing the somewhat more alarming story about the search for thousands of Kosovar refugees, who just disappeared one night from a border camp.

There was also a massive upsurge in tourism last week, which can apparently be attributed to warm weather and the aforementioned

Cherry Blossom Parade rather than the beavers. Unfortunately, this influx of tourists coincided with a breakdown of the computers which control the subway, which led to packed conditions and touched off what the papers described as a "Metro Mutiny," when several dozen passengers refused to get off a train that was so full its doors wouldn't close. Washington has long led the charge away from sensible transit planning and toward a world of careful social engineering; nearly thirty years ago, plans for a modern freeway system were shelved halfway through construction and the money diverted to Metro construction, leaving a bizarre and confusing semi-completed set of roads that serve as a trap for tourists and make commuting more than five miles impossible. Construction was ended so abruptly that the careful (or merely unlucky) observer can in fact note the presence of on- and off-ramps that lead to phantom highways, sad monuments to what might have been.

The city's response to the ever-worsening traffic problem has been largely to encourage people to ride the Metro, but as recent events demonstrate, commuting by Metro can be just as annoying and time-consuming as commuting by car, except that you don't have air conditioning and can't listen to the radio. Moreover, the limited number of Metro stations has created an oddly ironic side-effect: Prices of apartments within walking distance of Metro stations are several hundred dollars a month higher than other housing, meaning that in the DC

suburbs, only the rich can afford to use mass transit. Perhaps "Metro Mutiny," like "road rage," is sufficiently alliterative to become an over-used buzzword, and will put enough of a stigma on the use of the subway to revive highway funding, but I'm not holding my breath.

But DC isn't all bad. There are those cherry blossoms, which are quite beautiful, and you have plenty of time to admire them while sitting in the innumerable traffic jams. The fact that the Federal government is sited there does have its benefits. There are all sorts of amazing cultural things to do and sights to see that are provided gratis by the American public. The presence of all the museums and monuments, coupled with the zoning restrictions on the height of buildings (none can be higher than the top of the Capitol dome) make the city feel both majestic and approachable, the way that our nation's capital should. Unlike New York or L.A., which are both quite obviously cities built by and for business, Washington's very essence is an expression of the ideals of our government. Indeed, the problems with infrastructure do a great job illustrating the disconnect between high-minded goals and gritty reality. In the end, it is a city that everyone should see, and that everyone can be proud of, despite its warts.

Just don't try and drive there.



The lender that
helps you bring order
to all your law school
financing needs.



Finding the right financing for law school doesn't have to be a trial. Not when you rely on Key Education Resources®. We offer a full range of education financing products, including our LawAchiever Loan®, making it easier for you to earn your degree. Call us to apply today.

1-800-KEY-LEND
www.Key.com/educate

H E L P A T E V E R Y T U R N



Key Education Resources

THE YALE INTERVIEW

RICHARD LEE DELVES INTO THE LIFE AND MIND OF
UM LAW LEGEND YALE KAMISAR

April 6, 1999
University of Michigan Law School

Professor Yale Kamisar: My voice is back and now I think the rest of me will be back by September when I start teaching again. I only know one way to teach, and I'm going to teach the same way. I'm going to walk up and down the aisle; I'm going to stand over people; I'm going to get excited, but I don't think I'm going to get quite as excited as I used to and I don't think I'm going to get quite as red in the face as I used to because I don't think the old ticker can pump out that much blood! But other than that I will teach the same way.

Richard Lee: *The law students and alumni are very much concerned about your health, and it's good to see that you're feeling better. Should the students this fall treat you with kid gloves, knowing your condition?*

Kamisar: No. Treat me the same way. I mean I may breathe a little hard if I get worked up, but I still can jab them pretty hard with my left hand.

Lee: *All right, that's good to hear. Is it true that you got married a week after your heart attack?*

Kamisar: I was scheduled to get married at the end of February, and I got the heart attack about ten days or nine days before I was scheduled to get married. I got out of the hospital on the last Saturday in February... I got married the next day. I was married by a former student of mine, the Judge Magistrate Steve Pepe... right here in downtown Ann Arbor.... He married me right at my house. When I came home from the hospital I was pretty weak. I had to sort of nap most

of the day, but I stood up long enough to get married, and then I went back to bed - alone. Not the way I had planned it, but we take what we can get, you know, and now I've gotten much stronger... I feel pretty good, and since the heart attack I corrected about 750 pages of page-proofs for my new 9th edition of my casebook. And I finished an article on the Rehnquist Court on search and seizures and confessions; it was based on a speech I gave years ago, but it's a greatly expanded and revised article which eventually will appear in a collection of essays published by Oxford Press. So, you know, I'm back doing things, and I've faithfully clipped out all the articles on Kevorkian and so forth.

Lee: *Speaking of search and seizure... what are your feelings about the recent Court's movement toward expanding police searches [in traffic stop cases]?*

Kamisar: Well, you know, it's a very bad development. It seems to me as a practical matter there is no fourth amendment when it comes to stopping motorists.... If you follow a motorist for any substantial amount of time, he's going to commit some traffic violation, if only shifting lanes without signaling, or not signaling a hundred yards before he gets to the corner. So it's a wonderful world for law enforcement... The whole idea of the Fourth Amendment is you have to have a good reason to stop someone, to invade someone's privacy. But now, as these automobile cases have developed, the police don't need any reason to stop someone. All they need is a hunch or intuition that this guy's got drugs or weapons in his car, and they simply follow him for five miles and he commits a violation inevitably and they stop the car and they look

around and then they ask him whether he would object to a search of the car. They don't tell him he has a choice; they don't have to. They don't tell him, 'If you refuse to consent we will honor your refusal.' So the guy figures, what the hell, what choice do I have, if I don't agree to a consent they're going to search the car anyhow. In fact if he [doesn't] agree to a search of his car, they'll hold him there and bring the dogs.

Lee: *You mentioned earlier Dr. Jack Kevorkian's recent murder conviction; what significant effect do you think his murder conviction will have on the assisted suicide debate?*

Kamisar: Well, of course the people who favor assisted suicide are very busy telling us it will have no effect at all. I don't agree with that. First of all, I was surprised. I thought he would be convicted of involuntary manslaughter; I thought the jury would compromise. I didn't think they could bring themselves to convict him of second degree murder. I think [the judge] was absolutely right: according to the law the consent of the victim is irrelevant, the motive of mercy is irrelevant - they have nothing to do with the definition of murder. That was probably the decisive moment... I think that the whole thing turned on the judge saying, 'Look, I'm not going to let you put the widow on and put the brother of the dead man on and have them break down and sob for hours and collapse. That's what got you acquitted the other times.' Now, as far as I'm concerned, she should have gone further and said that it wasn't relevant on assisted suicide either... [The outcome] showed that Kevorkian was not invincible... It's almost impossible to convict

someone [like Kevorkian] of murder; I don't think there have been five people convicted of murder for euthanasia in the entire twentieth century, and I've studied these cases pretty closely. And so, if you convict [Kevorkian] of murder, that's pretty dramatic... [H]e helped people commit suicide over a hundred times, and he was never convicted... The best cases for convicting him were thrown out and never got to trial.

Lee: *I listened to some of this material in your Criminal Law course that I took last year. A lot of other students who have not had the opportunity to take your courses would like to do so this fall. You said you're going to be back. Students want to know, if you have any insight on this, why are all the good classes offered at 11:00 a.m. on the same days by the best professors in the law school?*

Kamisar: Well, my hunch is that that's the ideal time to teach from the point of view of the professor. I think because it's just before lunch, and then you can have a lunch break and go back to work and start getting back to your article or book. Now, unfortunately, I have to confess, without being advised of my Miranda rights, that I'm teaching Criminal Justice this fall, you know 'Cops and Robbers,' and I asked for an eleven o'clock class and I didn't get it. So I'm teaching at ten. But, you see, it shows you I'm losing my clout, or I got in too late. That's what happens when you have a heart attack. By the time you recover, your colleagues have filled all of the eleven o'clock slots, and you have to teach at ten.

Lee: *Speaking more broadly about the law school, what is your opinion about the state of the University of Michigan Law School?*

Kamisar: I really am very optimistic. I really think we've got a... great collection of young people. I mean every one of them... [T]he people this year - Ronald Mann, Mike Heller, and Rick Hills - and last year - Kyle Logue and Steve Croley - my God, you know, we've never had five people like that

in the history of this law school, and they come up for tenure.

Lee: *Professor Bill Miller, who has a great deal of affection for you, mentioned that during his first two years of teaching at the Law School, you purposefully intimidated him. Would you like to comment on this?*

Kamisar: How did I intimidate him?!... I mean the only thing I may have said is 'for crying out loud, don't walk into a class with a torn sweater.'... I'm an old fashioned guy; I just don't walk in like I came out of a shower or haven't taken a shower, - but I think Miller has improved his attire. [laughing]

Lee: *So, you don't intentionally scare the young assistant professors?*

Kamisar: Take my word for it, nobody can scare Bill Miller.

Lee: *My colleague, Bruce Manning, who is a regular columnist for the Res Gestae, wants me to pose this question to you . . . when are you planning to retire?*

Kamisar: I'm just taking one year at a time. The one thing I learned from what happened to me last February is you don't make plans... I don't think I'm going to teach two classes in one semester anymore, I think it's just too much, but right now let's just see how it goes. I can say one thing... I'm not planning on retiring this year or next year. But it all depends on my health as far as I'm concerned.

Lee: *Bruce wants me to pose this, too. Is it true you have brothers named Harvard and Princeton?*

Kamisar: No, I don't have any brothers, but I did think for a moment of naming my three sons Harvard, Princeton and Cornell, but I decided to go with David, Gordon and Jonathan.

Lee: *The final question I have, what pearls of wisdom can you offer to the graduating 3-Ls?*

Kamisar: What pearls of wisdom? Well, I think they are graduating at a good time. I think the legal profession is doing very well; ...the law firms keep expanding and keep generating enormous income, and I think it's a good time to be a lawyer if you are from a national law school. It's never been a good time to be a lawyer if you're from one of the law schools way down the pole. I mean, I think it's unfortunate - I don't think there should be that many law schools. I'm not a snob; I am perfectly willing to have 50 or 75 law schools, but 150 or 175? I think there are 48 law schools in the state of California; it's just ridiculous... I think that what law school you went to is more important than it was 25 years ago, and still more important than what it was 50 years ago, and you hear about these poor kids from non-prestigious law schools who just can't get jobs... I've always said, if you can't get into one of the top 40 or 50 law schools, you probably shouldn't go to law school... I think the students here are relatively happy... They always bitch a little bit, but I think they're pretty happy, you know, and I think that's not true at many of the top schools.

Lee: *Thank you very much for this interview. I've now interviewed you twice, and I've taken one of your courses. Will you promise that, when I say 'hello' to you in the hallways, that you'll know my name?*

Kamisar: Well, ya know, actually, uh - I didn't like that remark ["Are You a Big Person on Campus" - RG, April 1, 1999]. I mean, actually, I've worked very hard to - I'm just not good at names. I mean it's nothing personal. If I were good at names, I'd be dean of this law school. That's my problem, I'm just not good at names, I don't know why... And for the first time in my life, next fall - my secretary will scream when she hears this - I'm going to have photographs of everybody in my class and so forth, and I'm going to surprise the hell out of them.



A sincere Thanks.

Thanks to all of you who submitted briefs supporting the statement: "KeyCite® is more accurate, current, comprehensive and easier to use than any other citator."

The KeyCite "The Key to Good Law" Scholarship Contest was a huge success and winners will be chosen soon by the KeyCite Advisory Board.

Also happening in the near future is the addition of administrative materials, more secondary sources and exciting new features so you can verify good law and find related cases even faster—with maximum confidence. And, soon you'll be able to *KeyCite* statutes as well as cases!

Look for an upcoming announcement of the Scholarship Contest winners. Or visit <http://www.westgroup.com/keycite/contest.htm> to obtain a list of the winners.

To learn more about KeyCite, contact your West Group Academic Account Manager or call West Group Customer & Technical Services at 1-800-850-WEST (1-800-850-9378).



Brian H. Hall
President and Chief Executive Officer, West Group

P.S. Once again, a sincere thanks to you. And good luck on finals!

KeyCite "The Key to Good Law" Scholarship Contest

GRAND PRIZE: \$25,000 • FIRST PLACE: \$10,000 • SECOND PLACE: \$5,000

Winners to be announced soon.

KeyCite®
The Key to Good Law

INFORMATION ON YOUR TERMS



Bancroft-Whitney • Clark Boardman Callaghan • Lawyers Cooperative Publishing • Westlaw® • West Publishing

